

**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF                   )  
BIRCH COMMUNICATIONS, INC. FOR A                   )  
CERTIFICATE OF PUBLIC CONVENIENCE AND                   )  
NECESSITY TO PROVIDE                   )   PSC DOCKET NO. 17-1171  
TELECOMMUNICATIONS SERVICES IN THE                   )  
STATE OF DELAWARE                   )  
(FILED NOVEMBER 29, 2017)                   )

**ORDER NO. 9174**

**AND NOW**, this 1st day of February, 2018, the Delaware Public Service Commission (the "Commission") determines and orders the following:

**WHEREAS**, on November 29, 2017, Birch Communications, Inc. ("Birch" or the "Company") filed an application (the "Application") with the Commission for a Certificate of Public Convenience and Necessity ("CPCN") for approval to provide facilities-based and local exchange and intrastate long-distance telecommunications services throughout the State of Delaware; and

**WHEREAS**, Birch has requested a waiver of the requirements of 26 Del. C. § 208(b) requiring the Company to keep its books and records in an office within this State; and

**WHEREAS**, Birch provided the appropriate affidavit of publication of notice of the Application in the News Journal. The Commission Staff ("Staff") reports that it received no formal comments or objections regarding the Application within the required 20-day notice period; and

**WHEREAS,** Staff reports that Birch has provided sufficient information evidencing that it has the financial, technical, and operational capabilities required for a CPCN as set forth in Section 203A of Title 26 of the Delaware Code and the Commission's "Rules for the Provision of Telecommunications Services," 26 *Del. Admin. C.* § 4001 (the "Rules"); and

**WHEREAS,** the Commission determines that a CPCN should be granted to Birch to authorize it, as a public utility, to offer facilities-based and resold local exchange and intrastate long-distance telecommunications services under the provisions of 26 *Del. C.* § 203A and the Rules subject to the conditions set forth below;

**NOW THEREFORE, IT IS ORDERED BY THE AFFIRMATIVE VOTE  
OF NOT FEWER THAN THREE COMMISSIONERS:**

1. That pursuant to 26 *Del. C.* § 203A and Subchapter VII-A, Chapter 1 of Title 26 of the Delaware Code and the Rules, the Commission grants to Birch Communication, Inc., a CPCN to operate as a public utility and provide facilities-based and resold local exchange and interexchange telecommunications services within the State of Delaware as described in the Application.

2. That Birch shall provide the Commission with an executed copy of any interconnection agreements prior to providing service to any Delaware customer.

3. That Birch shall provide resold and facilities-based local exchange and competitive intrastate telecommunications services in the manner required by the Rules and at all times shall comply with all applicable provisions of the Delaware Code, the Commission's Rules and Regulations, and all other applicable laws, rules, regulations, and

orders.

4. That the provisions of 26 Del. C. § 208(b) are waived, and Birch is authorized to maintain its books and records relating to its Delaware operations outside of the State of Delaware; provided, however, and upon the condition that, Birch shall provide to the Commission at its Dover, Delaware office, in a timely manner and upon the written request of the Commission's Executive Director, all such books and records relating to Birch's Delaware operations as the Commission may deem reasonably necessary from time to time for review and copying. If the Commission must review the Delaware-related books and records of Birch at a location other than the Commission's Dover, Delaware office, Birch shall pay for the expenses of such review.

5. That a violation of this Order, the Commission's Rules and Regulations, or other applicable law, rule, regulation, or order may result in suspension or revocation of the CPCN.

6. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

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Chair

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Commissioner

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Commissioner

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Commissioner

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Commissioner

ATTEST:

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Secretary